

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

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<b>Action:</b>	Do Pass as Amended and Be Printed Engrossed
<b>Vote:</b>	8 - 0 - 1
<b>Yeas:</b>	Barton, Cameron, Garrett, Hicks, Krieger, Olson, Williamson, Barker
<b>Nays:</b>	0
<b>Exc.:</b>	Tomei
<b>Prepared By:</b>	Mike Schmidt, Counsel
<b>Meeting Dates:</b>	4/4, 4/11

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**WHAT THE MEASURE DOES:** Amends ORS 137.106 to make clear that the prosecuting attorney must present restitution information to the court within 90 days of the time that judgment is entered. Requires prosecuting attorney to give defense attorney 10 day notice of witnesses and evidence going to be presented. Applies to all sentencing hearings occurring after date of passage.

**ISSUES DISCUSSED:**

- This bill returns the state of the law to where it was prior to the Court of Appeals decision in *State v. McLaughlin*

**EFFECT OF COMMITTEE AMENDMENT:** Requires prosecuting attorney to give defense attorney 10 day notice of witnesses and evidence going to be presented. Changes application to all sentencing hearings occurring after date of passage.

**BACKGROUND:** In *State v. McLaughlin* the Oregon Court of Appeals strictly interpreted the restitution statute to require the prosecuting attorney to present the victim’s restitution information to the court “prior to the time of sentencing”. This was a departure from current practice around the state, and drastically shifted the timeline that district attorneys utilized for gathering and presenting this information. The Court’s reading of the statute led to parties trying to awkwardly figure out exactly when the restitution presentation should be made, since restitution has historically been a part of a defendant’s sentence yet the trial courts were now required to have a presentencing hearing to determine restitution before they moved on to the rest of the imposition of sentence. House Bill 3277 A makes it clear the legislature does not intend to limit the timeframe that district attorneys have to present the victim’s information to “prior to sentencing,” and would return the state of the law to where the practitioners believed it was previous to this ruling.